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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,905	02/04/2004	Massimo Malini	BUGZ 2 00215	4663
7590                      02/08/2005 Richard J. Minnich, Esq. Fay, Sharpe, Fagan, Minnich & McKee, LLP Seventh Floor 1100 Superior Avenue Cleveland, OH 44114-2518			EXAMINER DURAND, PAUL R.	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 02/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/771,905

Applicant(s)

MALINI, MASSIMO

Examiner

Paul Durand

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/05, 02/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malini (EP 1 256 519) in view of Ponti (EP 0 581 747).

In regard to claims 1,10,11 and 12 and as the examiner can understand the claims, Malini discloses the invention substantially as claimed including first surface 4, moving in a direction "A", conveying product 5 onto a second surface 6, wrapping means 7, with an electric drive axis, film feed unit 8, located near slot 9, with a second

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drive axis powering the drive roller, allowing a film to be transported toward the second surface and a control unit 26 which variably controls the drives and which controls the operating parameters of the machine (see Figs 1,4 and C3,L27 – C4,L18). What Malini does not disclose is the use of a film tension or unwinding unit to tension the film.

However Ponti teaches that it is old and well known in the art to provide a film tension unit with a roll of film 3, underneath a first and second surface a third drive axis for power driven roller 27 and 28 for the purpose of feeding a film to a wrapping machine (see Figs. 1,4 and C5,L37 – C6,L1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Malini with the feed means as taught by Ponti for the purpose of efficiently feeding film to a wrapping machine.

In regard to claims 2-5 and 7, the modified invention of Malini discloses the invention substantially as claimed including the third motor axis of variably and kinematically controlled powered rollers 27 and 28, mounted on a plate and located between the roll 3 and feed roller 28r (see Ponti Figs. 1,4 and C5,L37 – C6,L1). What the modified invention does not disclose is the location of an electric axis (the examiner is assuming that applicant intends to mean the axis of the motor or drive device) which is located on the film roller or supported on the roll drum itself. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have placed the drive means on the roller and drum since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

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In regard to claims 8 and 9, the modified invention of Malini discloses the invention substantially as claimed including sensing means 30, connected to a control unit and controlling the feed of materials, tubular roller 29, sensor 30f for sensing the position of the roller 29 for the purpose of controlling the feed of film from a roll (see Ponti Figs. 1,4 and C5,L37 – C6,L1).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malini and Ponti in further view of Ballestrazzi et al (US 4,693,053).

The modified invention of Malini discloses the invention substantially as claimed as applied to claim 1 above except for the use of a toothed drive belt to drive the feed rollers. However, Ballestrazzi teaches that it is old and well known in the art of film packaging to provide a belt in the form of chain 40 and 41, which is driven by toothed wheels 38 and 39 for the purpose of feeding a film through a wrapping machine (see Figs. 1,2 and C3,L22-55). Furthermore, while Ballestrazzi does not disclose the use of a toothed belt, the examiner takes Official Notice that it would have been an obvious matter of design choice to have substituted a chain drive belt with a toothed drive belt. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Malini with the feed means as taught by Ballestrazzi for the purpose of efficiently feeding a film through a wrapping machine.

**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Monaghan, Harkness, Reid, Willwerth, Gambetti, Miselli and Cook have been cited to show applicants devices having similar structure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
January 27, 2005



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700